

NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

NOTICE OF PROPOSED RULEMAKING

TITLE 3. AGRICULTURE

CHAPTER 2. DEPARTMENT OF AGRICULTURE ANIMAL SERVICES DIVISION

PREAMBLE

- | | |
|---|--|
| <u>1. Sections Affected</u>
Table I | <u>Rulemaking Action</u>
Amend |
|---|--|
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
Authorizing statutes: A.R.S. §§ 3-107(A)(1), 3-603(A), 3-667, 3-710(F), and 41-1073
Implementing statutes: A.R.S. §§ 3-601.01, 3-605, and 3-714
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**
Notice of Rulemaking Docket Opening: 9 A.A.R. 532, February 21, 2003
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Sherry D. Blatner, Rules Analyst
Address: Arizona Department of Agriculture
1688 W. Adams, Room 235
Phoenix, AZ 85007
Telephone: (602) 542-0962
Fax: (602) 542-5420
E-mail: sherry.blatner@agric.state.az.us
- 5. An explanation of the rule, including the agency's reasons for initiating the rule:**
The Time-frame Table contains licenses for both dairy and egg products and control. Subsequent to the time that the table was originally made into rule, responsibility for issuing the licenses was transferred from the Division to a centralized licensing section for the entire Department. It is necessary to increase time-frames to accommodate the competing business issues faced by the central unit and provide adequate response time to the regulated community.
- 6. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on in its evaluation of or justification for the rule or proposes not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**
None
- 7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**
Not applicable
- 8. The preliminary summary of the economic, small business, and consumer impact:**
A. *The Arizona Department of Agriculture.*
The Department will incur modest expenses related to educating the regulated community on the amendments. The Department will benefit from the enhanced time-frames, and will continue to ensure that licenses are issued in a timely manner without business disruption to the regulated community.

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B. *Political Subdivision.*

Other than the Department, no political subdivision is affected by this rulemaking.

C. *Businesses Directly Affected by the Rulemaking.*

Modification of licensing time-frames will ensure that all licenses continue to be issued in a timely manner.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Sherry D. Blatner, Rules Analyst
Address: Arizona Department of Agriculture
1688 W. Adams, Room 235
Phoenix, AZ 85007
Telephone: (602) 542-0962
Fax: (602) 542-5420
E-mail: sherry.blatner@agric.state.az.us

10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

The Department will schedule a public hearing if a written request for a public hearing is made to the person listed in item #4.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None

12. Incorporations by reference and their location in the rules:

None

13. The full text of the rules follows:

TITLE 3. AGRICULTURE

**CHAPTER 2. DEPARTMENT OF AGRICULTURE
ANIMAL SERVICES DIVISION**

ARTICLE 1. GENERAL PROVISIONS

Section

Table 1. Time-frames (Calendar Days)

ARTICLE 1. GENERAL PROVISIONS

Table 1. Time-frames (Calendar Days)

License	Authority	Administrative Completeness Review	Response to Completion Request	Substantive Completeness Review	Response to Additional Information	Overall Time-frame
MEAT AND POULTRY INSPECTION						
License to Slaughter	A.R.S. § 3-2002 A.R.S. § 3-2003 R3-2-208	14	14	30	14	44
Transfer of license without fee	A.R.S. § 3-2009	14	14	30	5	44
State Meat Inspection Service	A.R.S. § 3-2047	14	14	30	14	44
Sale or Exchange of Meat or Poultry	A.R.S. § 3-2081 R3-2-208	14	14	30	14	44

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Rendering Facility Certification	A.R.S. § 3-2081 R3-2-205	14	14	30	14	44
Transfer of License	A.R.S. § 3-2086	14	14	30	5	44
Official Slaughter Meat Licenses	A.R.S. § 3-2122 R3-2-208	14	14	30	14	44
FEEDING OF ANIMALS						
Feed Lot License	A.R.S. § 3-1452	14	14	60	14	74
Permit to Feed Garbage to Swine	A.R.S. § 3-2664	14	14	60	14	74
DAIRY PRODUCTS AND CONTROL						
Milk Distributing Plant New Renewal	A.R.S. § 3-607	7 <u>14</u> 7 <u>14</u>	7 <u>14</u> 7 <u>14</u>	7 <u>14</u> 14	7 <u>14</u> 7 <u>14</u>	14 <u>28</u> 21 <u>28</u>
Milk Processing Plant New Renewal	A.R.S. § 3-607	7 <u>14</u> 7 <u>14</u>	7 <u>14</u> 7 <u>14</u>	7 <u>14</u> 14	7 <u>14</u> 7 <u>14</u>	14 <u>28</u> 21 <u>28</u>
Plant Licensing New Renewal	A.R.S. § 3-665	7 <u>14</u> 7 <u>14</u>	7 <u>14</u> 7 <u>14</u>	7 <u>14</u> 14	7 <u>14</u> 7 <u>14</u>	14 <u>28</u> 21 <u>28</u>
Request to market a product as a milk product	A.R.S. § 601.01	7 <u>14</u>	7 <u>14</u>	7 <u>14</u>	7 <u>14</u>	14 <u>28</u>
Tester License	A.R.S. § 3-619	7	7	7	7	14
Trade Product Label	A.R.S. § 3-667	7 <u>14</u>	14	30	30	37 <u>44</u>
LIVESTOCK INSPECTION						
Equine Trader Permit	A.R.S. § 3-1348	7	7	7	7	14
Ownership and Hauling Certificate for Equines	A.R.S. § 3-1344 A.R.S. § 3-1345	14	14	14	14	28
EGG PRODUCTS AND CONTROL						
Annual Licensing	A.R.S. § 3-714	7 <u>10</u>	7 <u>10</u>	7 <u>10</u>	7 <u>10</u>	14 <u>20</u>
AQUACULTURE						
Aquaculture Facility	A.R.S. § 3-2907 R3-2-1004	14	14	30	14	44
Fee Fishing Facility	R3-2-1005	14	14	30	14	44
Processor	R3-2-1006	14	14	30	14	44
Transporter	R3-2-1007	14	14	30	14	44
Special Licenses	A.R.S. § 3-2908 R3-2-1008	14	14	30	14	44

NOTICE OF PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 11. STATE BOARD OF DENTAL EXAMINERS

PREAMBLE

- | | |
|------------------------------------|---------------------------------|
| <u>1. Sections Affected</u> | <u>Rulemaking Action</u> |
| R4-11-406 | Amend |
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
Authorizing statute: A.R.S. § 32-1207(A)(1) and (15)
Implementing statute: A.R.S. § 32-1207(D)
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**
Notice of Rulemaking Docket Opening: 9 A.A.R. 532, February 21, 2003
- 4. The name and address of agency personnel with whom persons may communicate regarding the rule:**
Name: Julie N. Chapko, Executive Director
Address: Arizona State Board of Dental Examiners
5060 N. 19th Avenue, Suite 406
Phoenix, AZ 85015
Telephone: (602) 242-1492
Fax: (602) 242-1445
E-mail: jnchapko@azbodex.com
- 5. An explanation of the rule, including the agency's reasons for initiating the rule:**
New rules for oral conscious sedation permits were approved by the Board on December 6, 2002. This amendment to R4-11-406 will establish the fee for the oral conscious sedation permit.
The rule change is necessary to comply with the statutory mandate in A.R.S. § 32-1207(D) that the Board establish and collect a fee for issuing an oral conscious sedation permit.
- 6. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on in its evaluation of or justification for the rule or proposes not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**
Not applicable
- 7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**
Not applicable
- 8. The preliminary summary of the economic, small business, and consumer impact:**
The rule's impact on established Board of Dental Examiner's procedures and office-related costs is minimal. The Board's office-related costs will increase slightly to support the new permit established by the rule. The number of licensees who may apply for the new permit is estimated at 44. The estimated increase in Board revenue if all 44 dentists obtain a permit would be \$6200 per year.
The rule will only affect dentists who do not already have a 1301 permit for general anesthesia and semi-conscious sedation or a 1302 permit for conscious sedation. The initial cost of obtaining a 1303 permit for oral conscious sedation is estimated at about \$3000 with an ongoing annual cost of about \$300 to \$500.
The Board, dentists, and the public benefit from a rule that is clear, concise, and understandable. The rule fulfills a statutory mandate.
- 9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**
Name: Julie N. Chapko, Executive Director
Address: Arizona State Board of Dental Examiners
5060 N. 19th Avenue, Suite 406
Phoenix, AZ 85015

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Telephone: (602) 242-1492
Fax: (602) 242-1445
E-mail: jnchapko@azbodex.com

10. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

Comments may be written or presented orally. Written comments must be received by 5:00 p.m., Monday, March 24, 2003. An oral proceeding is scheduled for:

Date: March 24, 2003
Time: 10:00 a.m.
Location: 5060 N. 19th Avenue, Suite 406
Phoenix, AZ 85015

A person may request information about the oral proceeding by contacting the person listed in item #9.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable

12. Incorporations by reference and their location in the rules:

None

13. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 11. STATE BOARD OF DENTAL EXAMINERS

ARTICLE 4. FEES

Section

R4-11-406. Fees for Anesthesia and Sedation Permits

ARTICLE 4. FEES

R4-11-406. Fees for Anesthesia and Sedation Permits

- A.** Under A.R.S. § 32-1207(D), the fee for a Section 1301 permit to administer general anesthesia and semi-conscious sedation or a Section 1302 ~~or~~ Section 1303 permit to administer conscious ~~or oral conscious~~ sedation is \$300.
- B.** Upon successful completion of the initial onsite evaluation and upon receipt of the required permit fee, the Board shall issue a separate Section 1301, ~~or~~ 1302, ~~or~~ 1303 permit to a dentist for each location requested by the dentist. A permit expires on December 31 of every third year.
- C.** The renewal fee for each Section 1301, ~~or~~ 1302, ~~or~~ 1303 permit is \$300 per dentist, per location.

NOTICE OF PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 23. BOARD OF PHARMACY

PREAMBLE

- | | |
|------------------------------------|---------------------------------|
| <u>1. Sections Affected</u> | <u>Rulemaking Action</u> |
| R4-23-401 | New Section |
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
Authorizing statute: A.R.S. § 32-1904(A)(1)
Implementing statute: A.R.S. § 41-1073
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**
Notice of Rulemaking Docket Opening: 8 A.A.R. 4852, November 22, 2002
- 4. The name and address of agency personnel with whom persons may communicate regarding the rule:**
Name: Dean Wright, Compliance Officer
Address: Board of Pharmacy
4425 W. Olive, Suite 140
Glendale, AZ 85302
Telephone: (623) 463-2727, ext. 131
Fax: (623) 934-0583
E-mail: rxcop@msn.com
- 5. An explanation of the rule, including the agency's reasons for initiating the rule:**
During a review of the Board's hospital rules in October 2002, G.R.R.C. staff noticed that there are no time-frame rules for the Board's approval of a hospital pharmacy's request to use less than the rules' minimum required 40 hours of pharmacist time per week. It was determined that time-frame rules were needed to address not only this issue, but any time the Board approved a special request by a licensee or permittee to deviate from or waive compliance with a Board rule. The proposed rule adds a new Section R4-23-401. The new Section has the heading Time-frames for Board Approvals and Special Requests, and will include the requirements for requesting a Board approval required by this Chapter or a special request to deviate from or waive compliance with a requirement of this Chapter and time-frames for approval or denial of the request.

The Board believes that approval of these rules benefits the public and the pharmacy community by clearly establishing the requirements for requesting a Board approval required by Board rules or a special request to deviate from or waive compliance with a requirement of Board rules and time-frames for approval or denial of the request.
- 6. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on in its evaluation of or justification for the rule or proposes not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**
Not applicable
- 7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**
Not applicable
- 8. The preliminary summary of the economic, small business, and consumer impact:**
The rule has no economic impact on the regulated community, small business, or the general public. The rule is necessary to comply with the requirements in the Administrative Procedures Act related to an agency's establishment of time-frames. The rule establishes the Board's office procedures when a licensee or permittee seeks a Board approval required by rule or permission to deviate from or waive compliance with the requirements of a Board rule. The only economic impact is on the Board for personnel time spent in the rulemaking process. That economic impact is minimal.

The Board, the public, and the pharmacy community benefit from a rule that clearly establishes the requirements for requesting a Board approval required by Board rules or a special request to deviate from or waive compliance with a requirement of Board rules and time-frames for approval or denial of the request.

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9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Dean Wright, Compliance Officer
Address: Board of Pharmacy
4425 W. Olive, Suite 140
Glendale, AZ 85302
Telephone: (623) 463-2727, ext. 131
Fax: (623) 934-0583
E-mail: rxcop@msn.com

10. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

Comments may be written or presented orally. Written comments must be received by 5:00 p.m., Monday, March 24, 2003. An oral proceeding is scheduled for:

Date: March 24, 2003
Time: 10:00 a.m.
Location: 4425 W. Olive, Suite 140
Glendale, AZ 85302

A person may request information about the oral proceeding by contacting the person listed in item #9.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable

12. Incorporations by reference and their location in the rules:

None

13. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 23. BOARD OF PHARMACY

ARTICLE 4. PROFESSIONAL PRACTICES

Section

R4-23-401. ~~Repealed~~ Time-frames for Board Approvals and Special Requests

ARTICLE 4. PROFESSIONAL PRACTICES

R4-23-401. ~~Repealed~~ Time-frames for Board Approvals and Special Requests

- A.** To request a Board approval required by this Chapter or a special request to deviate from or waive compliance with a requirement of this Chapter, a person shall send a letter by regular mail, e-mail, or facsimile to the Board office, detailing the nature of the approval or special request, including the applicable Arizona Revised Statute or administrative code citation. This Section does not apply to a request from a person regarding the probation, suspension, or revocation of a license or permit.
- B.** The Board office shall complete an administrative completeness review within 15 days from the date of receipt of a written request and immediately open a request file for the applicant.
- 1.** The Board office shall issue a written notice of administrative completeness to the applicant if no deficiencies are found in the request.
 - 2.** If the request is incomplete, the Board office shall provide the applicant with a written notice that includes a comprehensive list of the missing information. The 15-day time-frame for the Board office to finish the administrative completeness review is suspended from the date the notice of incompleteness is served until the applicant provides the Board office with all missing information.
 - 3.** If the Board office does not provide the applicant with notice regarding administrative completeness, the request shall be deemed complete 15 days after receipt by the Board office.

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- C.** An applicant with an incomplete request shall submit all of the missing information within 30 days of service of the notice of incompleteness.
1. If an applicant cannot submit all missing information within 30 days of service of the notice of incompleteness, the applicant may send a written request for an extension to the Board office post-marked or delivered no later than 30 days from service of the notice of incompleteness.
 2. The written request for an extension shall document the reasons the applicant cannot meet the 30-day deadline.
 3. The Board office shall review the request for an extension of the 30-day deadline and grant the request if the Board office determines that an extension of the deadline will enable the applicant to assemble and submit the missing information. An extension shall be for no more than 30 days. The Board office shall notify the applicant in writing of its decision to grant or deny the request for an extension. An applicant who requires an additional extension shall submit an additional written request according to subsections (C)(1) and (C)(2).
- D.** If an applicant fails to submit a complete request within the time allowed, the Board office shall close the applicant's request file. An applicant whose request file is closed and who later wishes to obtain an approval or special request shall apply again according to subsection (A).
- E.** From the date on which the administrative completeness review of a request is finished, the Board shall complete a substantive review of the applicant's request in no more than 120 days.
1. The Board shall:
 - a. Approve the request.
 - b. Deny the request, or
 - c. If the Board determines deficiencies exist, request the applicant to produce additional documentation.
 2. If the Board approves or denies, the Board office shall issue a written approval or denial.
 3. If the Board finds deficiencies during the substantive review of a request, the Board office shall issue a written request to the applicant for additional documentation.
 4. The 120-day time-frame for a substantive review of a request for approval or special request is suspended from the date of a written request for additional documentation until the date of the next Board meeting after all documentation is received. The applicant shall submit the additional documentation according to subsection (C).
 5. If the applicant and the Board office mutually agree in writing, the 120-day substantive review time-frame may be extended once for no more than 30 days.
- F.** For the purpose of A.R.S. § 41.1072 et seq., the Board establishes the following time-frames for a Board approval required by this Chapter or a special request to deviate from or waive compliance with a requirement of this Chapter:
1. Administrative completeness review time-frame: 15 days;
 2. Substantive review time-frame: 120 days; and
 3. Overall time-frame: 135 days.